



FACT SHEET

WETLANDS #2 Office of Technical and Customer Assistance / Spring 2000

EXEMPT ACTIVITIES FOR HOMEOWNERS

WHAT ARE EXEMPT ACTIVITIES?

“Exempt activities” are minor projects that DEM has determined have little or no impact on freshwater wetlands, and therefore may be completed without obtaining a wetlands permit. *Rule 6.00 of the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act* lists specific exempt activities as well as conditions and restrictions related to those activities. To fully qualify as an exempt activity, a project must be conducted in accordance with all the general conditions described in *Rule 6.01*, as well as all the specific conditions and restrictions described throughout the *Rule*. No part of *Rule 6.00* reduces DEM’s jurisdiction over wetlands, and it does not imply exemption from other state, local, or federal permits.

As a homeowner who is planning alterations, repairs, or maintenance to your property, you should first ask yourself whether your activity would qualify as exempt. You should carefully read all the general and specific conditions and restrictions in *Rule 6.00* before deciding if your project is exempt. If there is a question as to whether or not you may need a permit, DEM can give you general guidance. If your situation is unclear, you may have to file a *Request for Preliminary Determination* application for an official response from DEM about whether your project is indeed exempt. Some common exempt activities that a homeowner may be considering are described below.

CAN I ADD ON TO MY HOUSE WITHOUT A PERMIT?

Additions to an “existing” single-family house can be completed without a permit if the construction disturbance is within “existing” cleared areas such as lawns, parking areas or cultivated fields and as stated in *Rule 6.05*, all work must be located at least 25 feet from any pond, marsh, swamp or wetland complex, at least 50 feet from any flowing body of water or bog and not within any 100-year floodplain. The addition itself must be no larger than 600 square feet in footprint. House additions are typically for a family room, bedroom, an attached garage or deck, an enclosed porch, a patio or a ramp.

Vertical additions to “existing” single-family houses are also exempt per *Rule 6.05*, as are the construction of new stand-alone structures that total no more than 600 square feet and the addition of new “property accessories” (*Rule 5.64*). Property accessories include amateur radio towers, flagpoles, swing sets, slides, decks, patios, gardens, sheds, swimming pools, fences that do not obstruct public access to waterbodies or streams, treehouses, drinking water wells that withdraw no more than 500 gallons per day, walls, stairs, walks, and pervious driveways, etc. Remember that all the conditions of *Rules 6.01* and *6.05* apply to stand alone structures and property accessories.

You should be aware that no artificial lighting may be directed toward any wetland as a result of these activities, erosion and sedimentation control devices must be used throughout the construction period, and all disturbed areas must be stabilized at the earliest possible date.

One common source of confusion when dealing with any exempt activity is the meaning of the word “existing.” If your house or lawn happens to be in a regulated freshwater wetland, they must have been in place in July 1971, or if they were constructed after July 1971 you must have received a wetland permit for them to be considered “existing.”

DO I NEED A PERMIT TO REPAIR OR MAINTAIN MY PROPERTY?

An “existing” structure located in wetlands can be repaired or maintained without a wetlands permit, provided it is currently in use

and all the conditions of *Rule 6.00* are followed. It is important to keep in mind that the repair work cannot result in an increase in the size of the structure unless the change is necessary to maintain its integrity.

Normal maintenance or repair of “existing” property accessories such as patios, decks, sheds, pools, flag poles, fences, walls, stairs, driveways, lawns, etc. are exempt activities provided the work is completed in accordance with *Rules 6.01* and *6.03*.

Activities associated with the repair or replacement of single family residential drinking wells in wetlands are exempt provided there is no upland location available for the work, wetland disturbance is limited as much as possible, and any area where vegetation must be cleared is allowed to re-vegetate naturally. According to the *Rule 6.03S* the new or repaired well must provide the same service as the original well, with a limited capacity of 500 gallons of water per day.

Repairs to failed septic systems (ISDS) are exempt from wetland permit requirements (see *Rule 6.03T*), but do require a permit from DEM’s ISDS Program in accordance with their Rules and Regulations.

Shoreline structures, such as stone or masonry walls, can be repaired provided they are not enlarged and no material is placed in a manner that will cause it to be eroded by high surface water flows. In addition, maintenance of “existing” beaches is exempt provided the beach is not enlarged.

Finally, existing or approved buildings and property accessories can be replaced following destruction by fire or natural causes without a wetlands permit. For all of these exempt activities erosion and sedimentation controls must be used and the other conditions of *Rule 6.00* must be met.

ARE THERE EXEMPTIONS FOR CLEARING OR CUTTING IN A WETLAND?

Limited clearing or cutting of trees or bushes in wetlands is allowed without a permit under certain conditions described in *Rule 6.02*. Clearing or removal of vegetation encroaching into existing fields, landscaped areas, or recreational areas is exempt, provided the area is not designated as an area to be replanted as a result of a permit condition or enforcement action issued by DEM.

Cutting firewood in a wetland for non-commercial, individual use, is an exempt activity and therefore is allowed without a wetlands permit, but it should be done selectively in order to protect forested wetland habitat. No motorized vehicles are to be used in the wetland for this purpose.

CAN I MOOR MY BOAT WITHOUT A WETLAND PERMIT?

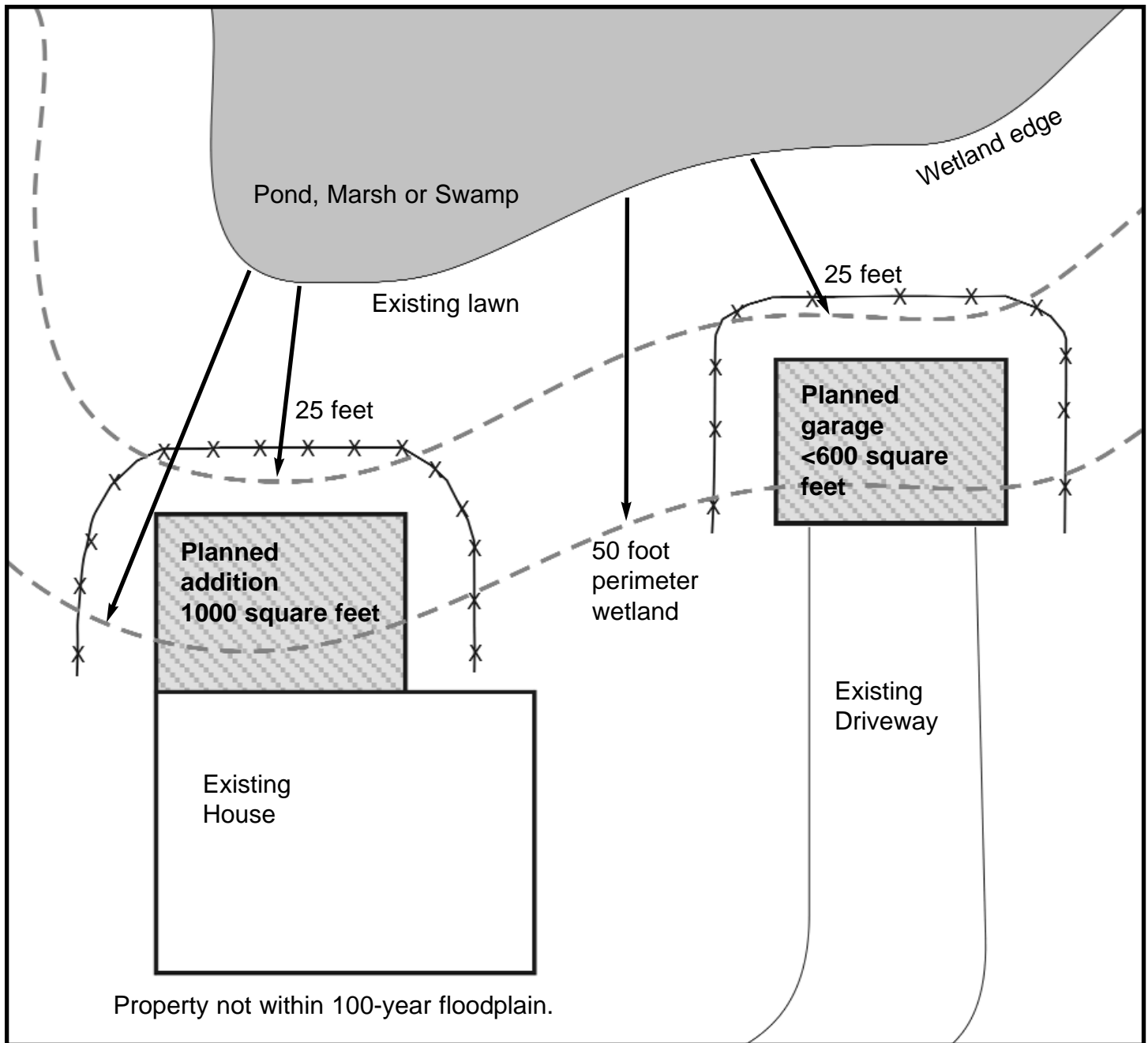
One mooring for a single boat is allowed per waterfront lot without a wetland permit provided that the mooring does not exceed a weight of 100 pounds.

HOW CAN I OBTAIN A COPY OF DEM’S WETLANDS RULES AND REGULATIONS?

A complete copy of DEM’s *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act* can be obtained from DEM’s Office of Technical and Customer Assistance located at the Foundry Office Complex at 235 Promenade Street, Providence (401-222-6800). They may also be found on the DEM website at <http://www.state.ri.us/dem>.

Disclaimer: This Fact Sheet is for general information purposes only and is not meant to be a substitute for the Freshwater Wetlands Act or the *Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act*.

ACTIVITIES THAT ARE NOT EXEMPT

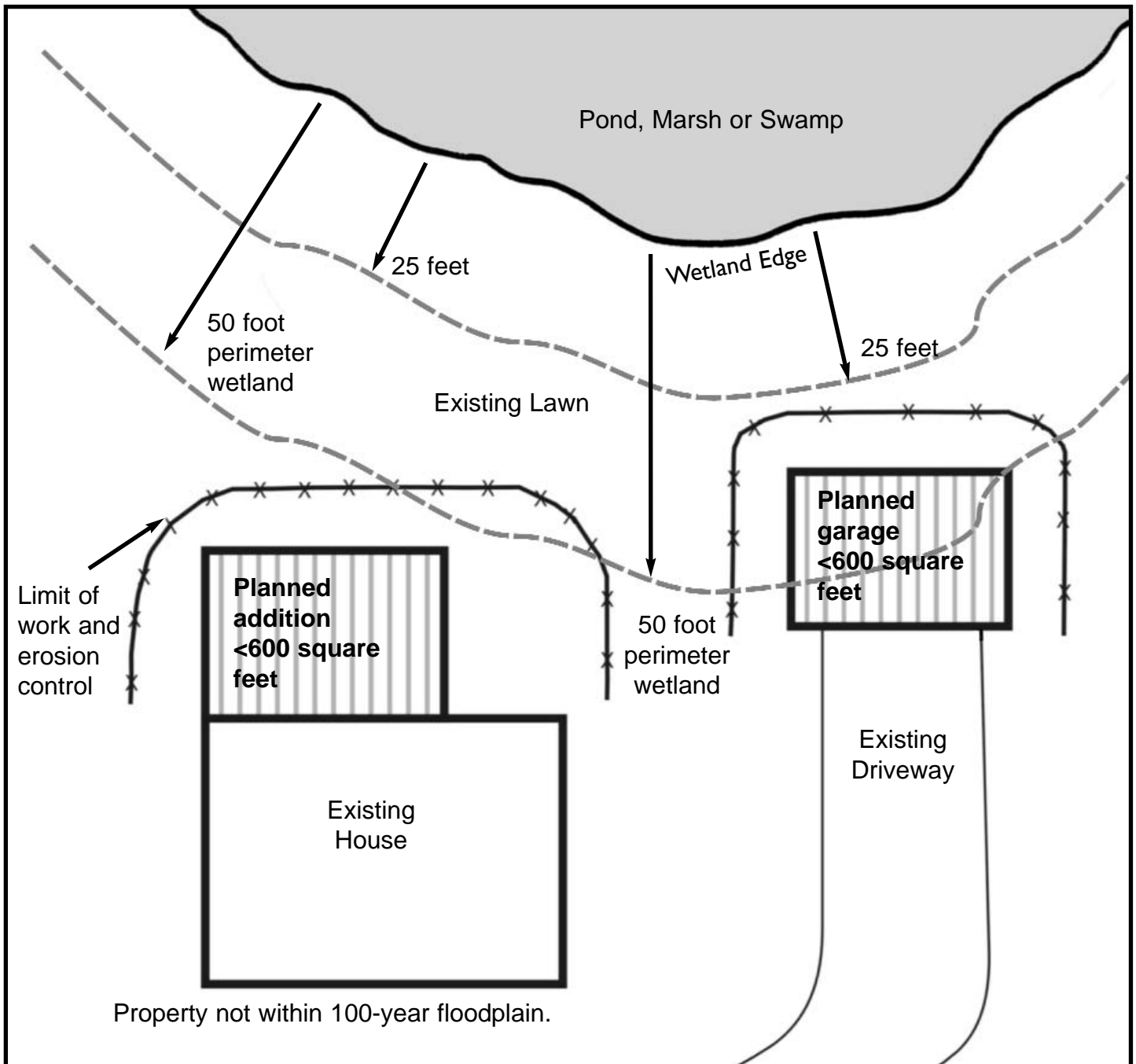


This illustration shows similar projects that do not qualify as exempt activities for the following reasons:

- ×The proposed house addition is greater than 600 square feet in footprint, and
- ×The limit of work around the proposed garage is less than 25 feet from the edge of the pond, marsh or swamp.

WETLAND FACT SHEET 2 ATTACHMENT

EXAMPLES OF EXEMPT ACTIVITIES



The above diagram shows some examples of common exempt activities that a homeowner may be planning. The proposed work will take place in a Perimeter Wetland and would normally require a wetland permit. However, this project would be considered exempt, per Rule 6.00, for the following reasons:

- ✓The work will take place in an existing cleared lawn,
- ✓The limit of the work is 25 feet or greater from the edge of a pond, marsh or swamp,
- ✓The property is not located within 100-year floodplain,
- ✓The proposed addition to the house is less than 600 square feet in footprint,
- ✓The proposed garage is less than 600 square feet in footprint, and
- ✓Erosion controls (hay bales or silt fence) will be placed along the limit of work to protect the wetland.